

LAW OFFICES OF ELLYN MOSCOWITZ
 ELLYN MOSCOWITZ, (SBN 129287)
 SHARON SEIDENSTEIN, (SBN 215588)
 1629 Telegraph Avenue, 4th Floor
 Oakland, CA 94612
 Telephone: (510) 899-6240 Facsimile: (510) 899-6245

E-filing

JIVAKA CANDAPPA, (SBN 225919)
 46 Shattuck Square, Suite 15
 Berkeley, CA 94704
 Telephone: (510) 981-1808 Facsimile: (510) 981-1817

Attorneys for Plaintiffs, UNITED UNION OF ROOFERS, WATERPROOFERS,
 AND ALLIED WORKERS - LOCAL 81 AFL-CIO,
 LEROY CISNEROS, and FRANCISCO GARCIA

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED UNION OF ROOFERS,
 WATERPROOFERS, AND ALLIED
 WORKERS - LOCAL 81 AFL-CIO, LEROY
 CISNEROS, AND FRANCISCO GARCIA,

Plaintiffs,

vs.

COUNTY OF ALAMEDA; ALAMEDA
 COUNTY SHERIFF'S OFFICE; SHERIFF
 GREGORY J. AHERN, in his official
 capacity; TIMOTHY J. VALES (#104529),
 DAVID A. DRISCOLL (#108967), ROBERT
 LAPOINT (#843), and DAVID MCKAIG
 (#364), individually and in their official
 capacities; CASTRO VALLEY UNIFIED
 SCHOOL DISTRICT; JO A. LOSS, KUNIO
 OKUI, JOHN BARBIERI, JANICE
 FRIESEN, and GEORGE GRANGER, in their
 official capacities as members of the Castro
 Valley Unified School District Board of
 Education; SUPERINTENDENT JAMES
 FITZPATRICK, in his official capacity;

Case No.:

08

2281

BZ

**COMPLAINT FOR DAMAGES AND
 INJUNCTIVE AND DECLARATORY
 RELIEF**

**(42 U.S.C. §§ 1983, 1985, 1986; Cal. Gov.
 Code §§ 815.2, 815.6; Cal. Civ. Code §§
 51.7, 52.1; False Imprisonment, Assault and
 Battery, Intentional Infliction of Emotional
 Distress, Negligence, Invasion of Privacy)**

DEMAND FOR JURY TRIAL

BY FAX

**Complaint for Damages and Injunctive
 and Declaratory Relief**

Local 81 AFL-CIO vs. County of Alameda et al.

1 SUSAN GOLDMAN, MICHAEL MILLER,)
 2 and JERRY MACY, individually,)
 3)
 4 Defendants.)

5 Plaintiffs, UNITED UNION OF ROOFERS, WATERPROOFERS, AND ALLIED
 6 WORKERS - LOCAL 81 AFL-CIO ("LOCAL 81"), LEROY CISNEROS and FRANCISCO
 7 GARCIA, by and through their counsel, hereby allege as follows:

8 INTRODUCTION

9 1. This is an action brought by Plaintiffs UNITED UNION OF ROOFERS,
 10 WATERPROOFERS, AND ALLIED WORKERS - LOCAL 81 AFL-CIO, LEROY
 11 CISNEROS, and FRANCISCO GARCIA ("Plaintiffs") against Defendants COUNTY OF
 12 ALAMEDA; ALAMEDA COUNTY SHERIFF'S OFFICE; SHERIFF GREGORY J. AHERN,
 13 in his official capacity; TIMOTHY J. VALES (#104529), DAVID A. DRISCOLL (#108967),
 14 ROBERT LAPOINT (#843), and DAVID MCKAIG (#364), individually and in their official
 15 capacities; CASTRO VALLEY UNIFIED SCHOOL DISTRICT; JO A. LOSS, KUNIO OKUI,
 16 JOHN BARBIERI, JANICE FRIESEN, GEORGE GRANGER, in their official capacities as
 17 members of the Castro Valley Unified School District Board of Education;
 18 SUPERINTENDENT JAMES FITZPATRICK, in his official capacity; SUSAN GOLDMAN,
 19 MICHAEL MILLER, and JERRY MACY, individually, alleging causes of action for violations
 20 of 42 U.S.C. sections 1983, 1985(3), and 1986, California Government Code sections 815.2 and
 21 815.6, California Civil Code sections 51.7 and 52.1, false imprisonment, assault and battery,
 22 intentional infliction of emotional distress, negligence and negligence per se, and invasion of
 23 privacy. Plaintiffs bring this action as a collective action. Plaintiffs seek damages, including
 24 exemplary, statutory and compensatory damages, declaratory relief, injunctive relief, attorney
 25 fees and costs of suit.

26 2. On or about May 15, 2007, Plaintiffs LEROY CISNEROS ("CISNEROS") and
 27 FRANCISCO GARCIA ("GARCIA"), employees of UNITED UNION OF ROOFERS,
 28

1 WATERPROOFERS, AND ALLIED WORKERS - LOCAL 81 AFL-CIO ("LOCAL 81"),
 2 were unlawfully arrested by officers of Alameda County Sheriff's Office adjacent to Castro
 3 Valley High School, while engaged in a lawful informational picket regarding a roofing
 4 subcontractor, Legacy Roofing, that had been hired to do construction work at Castro Valley
 5 High School. Despite the fact that Plaintiffs CISNEROS and GARCIA were engaged in a
 6 lawful picket protected by Section 7 of the National Labor Relations Act ("NLRA") and the
 7 state and federal constitutions, despite the fact that Plaintiffs were on a public sidewalk, despite
 8 the fact that Plaintiff GARCIA moved across the street when directed to do so both men were
 9 arrested and jailed by the Alameda County Sheriff's deputies without lawful justification.
 10 Plaintiff CISNEROS was charged with resisting arrest pursuant to California Penal Code
 11 section 148(a)(1), which he clearly did not, and both men were charged with violating Penal
 12 Code section 626.8(a)(1). Significantly, Penal Code section 626.8(a)(1) explicitly provides that
 13 it "shall not be used to impinge upon the lawful exercise of constitutionally protected rights of
 14 freedom of speech and assembly," which is, of course, how it was used improperly by
 15 Defendants.

16 3. Defendants' misconduct was compounded by Plaintiffs' ridiculously long
 17 detention at the Santa Rita Jail, and the Alameda County Sheriff's unwillingness to set bail in an
 18 obvious effort to cause Plaintiffs to spend the night in jail. Plaintiffs CISNEROS and GARCIA
 19 were arrested at approximately 9:30 a.m., yet the Alameda County Sheriff's Office refused to
 20 inform and advise CISNEROS and GARCIA'S attorneys of the charges against them or the
 21 amount of bail until after 5:00 p.m. when most banks were closed, despite repeated calls by
 22 Plaintiffs' attorneys throughout the day. Certainly, the reason for Plaintiffs' arrest was known
 23 to the Alameda County Sheriff's Office at the time of Plaintiffs' arrest, and thus the charges and
 24 the amount of bail sought should have been easily determined. Yet it took the Sheriff's Office
 25 and the Santa Rita Jail approximately eight hours to advise counsel of the charges and set bail,
 26 and almost another three additional hours to release Plaintiffs CISNEROS and GARCIA.

27 4. The unlawful arrests and detentions were not only intended to chill Unions' and
 28 workers' efforts to exercise their NLRA section 7 and federal and state constitutional rights, but

1 it deprived CISNEROS and GARCIA of their freedom and their property. Plaintiffs were
2 released approximately eleven hours after their arrest. Their property, including a video camera
3 and two still cameras that they use on a regular basis for their work, were not released until a
4 Superior Court Judge so ordered on September 7, 2007, nearly four months after the incident, in
5 response to counsel's motion. Even then, the Sheriff's Office declined to release Plaintiffs'
6 property pursuant to the court order but required internal authorization in order to release the
7 property.

8 5. LOCAL 81 lost two days' work and the time of its officer who secured
9 Plaintiffs' release because Plaintiffs, who were employed by LOCAL 81, were incarcerated at
10 Santa Rita jail for the entire day. LOCAL 81 lost additional employee time when CISNEROS
11 and GARCIA filed a motion to have their property returned, appeared for their hearings, and
12 traveled to the Sheriff's Office to get their property back. LOCAL 81 also lost use of the
13 cameras for nearly four months, which it routinely uses for organizing and monitoring activity.

14 6. Local 81 sends its employees out to picket nearly every week, and approximately
15 twenty five percent (25%) of the time in Alameda County. Local 81 conducts approximately
16 45-50 pickets per year. Local 81 pickets job sites that employ non-signatory roofing
17 contractors. Future pickets in the Alameda County Sheriff's jurisdiction or within the Castro
18 Valley Unified School District will likely occur anytime when public entities employ non-
19 Union labor that does not meet the conditions established by the Roofers and Waterproofers in
20 that area. For that reason alone, the likelihood of disruption to Local 81's lawful union
21 activities is highly likely in the absence of equitable relief.

22 PARTIES

23 7. Plaintiff LOCAL 81 was at all times relevant herein, the employer of Plaintiffs
24 CISNEROS and GARCIA, and a Labor organization representing roofers in the geographic
25 jurisdiction where Defendants caused the unlawful arrests of CISNEROS and GARCIA.
26 LOCAL 81 brings this action on behalf of itself, its members and its employees, and other
27 Unions, Union employees and Union members similarly situated.

1 8. Plaintiff, LEROY CISNEROS, a Hispanic male, is and was at all times relevant
2 herein, an employee of LOCAL 81.

3 9. Plaintiff, FRANCISCO GARCIA, a Hispanic male, is and was at all times
4 relevant herein, an employee of LOCAL 81.

5 10. On information and belief, Defendant COUNTY OF ALAMEDA is a
6 municipal corporation that owns, operates, and governs the ALAMEDA COUNTY
7 SHERIFF'S OFFICE pursuant to the laws of the State of California.

8 11. On information and belief, Defendant GREGORY J. AHERN ("AHERN") is
9 the Sheriff for Alameda County.

10 12. On information and belief, Defendants Deputy TIMOTHY J. VALES
11 (#104529) ("VALES"), Deputy DAVID A. DRISCOLL (#108967) ("DRISCOLL"), Sergeant
12 ROBERT LAPOINT (#843) ("LAPOINT"), and Sergeant DAVID MCKAIG (#364)
13 ("MCKAIG") are and at all times material to this complaint were employees of Defendants
14 COUNTY OF ALAMEDA and the ALAMEDA COUNTY SHERIFF'S OFFICE.

15 13. On information and belief, Defendants COUNTY OF ALAMEDA and the
16 ALAMEDA COUNTY SHERIFF'S OFFICE are and at all times material to this complaint
17 were responsible for the employment, training, supervision, and discipline of Defendants
18 VALES, DRISCOLL, LAPOINT and MCKAIG.

19 14. On information and belief, Defendant VALES, sued here in his individual and
20 official capacities, is a resident of the State of California, and is and at all times material to
21 this complaint was duly employed, appointed and acting as a sworn peace officer of the
22 Alameda County Sheriff's Office, acting under color of law to wit, under color of the statutes,
23 ordinances, regulations, policies, customs, and usages of the State of California and/or the
24 County of Alameda. At all times material to this complaint, Defendant VALES acted within
25 the scope of his employment with the Alameda County Sheriff's Office and the County of
26 Alameda. At all times material to this complaint, Defendant VALES was assigned to Castro
27 Valley High School as a school resource officer.

1 15. On information and belief, Defendant DRISCOLL, sued here in his individual
2 and official capacities, is a resident of the State of California, and is and at all times material
3 to this complaint was duly employed, appointed and acting as a sworn peace officer of the
4 Alameda County Sheriff's Office, acting under color of law to wit, under color of the statutes,
5 ordinances, regulations, policies, customs, and usages of the State of California and/or the
6 County of Alameda. At all times material to this complaint, Defendant DRISCOLL acted
7 within the scope of his employment with the Alameda County Sheriff's Office and the County
8 of Alameda.

9 16. On information and belief, Defendant LAPOINT, sued here in his individual
10 and official capacities, is a resident of the State of California, and is and at all times material
11 to this complaint was duly employed, appointed and acting as a sworn peace officer of the
12 Alameda County Sheriff's Office, acting under color of law to wit, under color of the statutes,
13 ordinances, regulations, policies, customs, and usages of the State of California and/or the
14 County of Alameda. At all times material to this complaint, Defendant LAPOINT acted
15 within the scope of his employment with the Alameda County Sheriff's Office and the County
16 of Alameda.

17 17. On information and belief, Defendant MCKAIG, sued here in his individual
18 and official capacities, is a resident of the State of California, and is and at all times material
19 to this complaint was duly employed, appointed and acting as a sworn peace officer of the
20 Alameda County Sheriff's Office, acting under color of law to wit, under color of the statutes,
21 ordinances, regulations, policies, customs, and usages of the State of California and/or the
22 County of Alameda. At all times material to this complaint, Defendant MCKAIG acted
23 within the scope of his employment with the Alameda County Sheriff's Office and the County
24 of Alameda.

25 18. On information and belief, Defendant CASTRO VALLEY UNIFIED
26 SCHOOL DISTRICT is a properly incorporated school district that owns, operates, and
27 governs Castro Valley High School pursuant to the laws of the State of California. On
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1 information and belief, the Castro Valley Unified School District is governed by the Board of
2 Education ("School Board") of the Castro Valley Unified School District, which has
3 responsibility for setting policy for the district, and for establishing general policies governing
4 the operation of schools in the district.

5 19. On information and belief, Defendant JO A. LOSS ("LOSS"), sued here in her
6 official capacity, is and at all times material to this complaint was a member of the Castro
7 Valley Unified School District School Board.

8 20. On information and belief, Defendant KUNIO OKUI ("OKUI"), sued here in
9 his official capacity, is and at all times material to this complaint was a member of the Castro
10 Valley Unified School District School Board.

11 21. On information and belief, Defendant JOHN BARBIERI ("BARBIERI"), sued
12 here in his official capacity, is and at all times material to this complaint was a member of the
13 Castro Valley Unified School District School Board.

14 22. On information and belief, Defendant JANICE FRIESEN ("FRIESEN"), sued
15 here in her official capacity, is and at all times material to this complaint was a member of the
16 Castro Valley Unified School District School Board.

17 23. On information and belief, Defendant GEORGE GRANGER ("GRANGER"),
18 sued here in his official capacity, is and at all times material to this complaint was a member
19 of the Castro Valley Unified School District School Board.

20 24. On information and belief, Defendant JAMES L. FITZPATRICK
21 ("FITZPATRICK"), sued here in his official capacity, is and at all times material to this
22 complaint was the Superintendent of Castro Valley Unified School District. As
23 Superintendent, he has overall responsibility for the administration of Castro Valley Unified
24 School District. On information and belief, Defendant CASTRO VALLEY UNIFIED
25 SCHOOL DISTRICT is the public employer of Defendant FITZPATRICK.

26 25. On information and belief, Defendant CASTRO VALLEY UNIFIED
27 SCHOOL DISTRICT is and at all time material to this complaint was the public employer of
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1 Defendants SUSAN GOLDMAN, MICHAEL MILLER, and JERRY MACY. On
2 information and belief, Defendant CASTRO VALLEY UNIFIED SCHOOL DISTRICT is
3 and at all times material to this complaint was responsible for the employment, training,
4 supervision, and discipline of Defendants GOLDMAN, MILLER and MACY.

5 26. On information and belief, Defendant SUSAN GOLDMAN ("GOLDMAN"),
6 sued here in her individual capacity, is a resident of the State of California and is employed by
7 the Castro Valley Unified School District as an Associate Principal at Castro Valley High
8 School. At all times material to this complaint, Defendant GOLDMAN was acting under color
9 of law and as an employee of the Castro Valley Unified School District.

10 27. On information and belief, Defendant MICHAEL MILLER ("MILLER"), sued
11 here in his individual capacity, is a resident of the State of California and is employed by the
12 Castro Valley Unified School District as its Director of Maintenance. At all times material to
13 this complaint, Defendant MILLER was acting under color of law and as an employee of the
14 Castro Valley Unified School District.

15 28. On information and belief, Defendant JERRY MACY ("MACY"), sued here in
16 his individual capacity, is a resident of the State of California and is employed by the Castro
17 Valley Unified School District as an Assistant Superintendent. At all times material to this
18 complaint, Defendant MACY was acting under color of law and as an employee of the Castro
19 Valley Unified School District.

20 29. Plaintiffs are informed and believe that each Defendant was the agent or
21 employee of each of the other Defendants, and in perpetrating the wrongful conduct detailed
22 in this complaint, acted within the scope of such agency or employment, or ratified the acts of
23 the other.

24 30. Plaintiffs are informed and believe that each of the Defendants caused, and is
25 responsible for the below-described unlawful conduct and resulting injuries in that each of the
26 Defendants participated in the unlawful conduct or acted jointly with others who did so;
27 authorized, acquiesced in or set in motion actions that led to the unlawful conduct; failed to take
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1 action to prevent the unlawful conduct; failed and refused with deliberate indifference to
 2 Plaintiffs' rights to initiate and maintain adequate training and supervision; failed to prevent
 3 further harm to Plaintiffs; and/or ratified the unlawful conduct and actions by employees and
 4 agents under Defendants' direction and control, including failure to take remedial action.

5 JURISDICTION AND VENUE

6 31. This Court has subject matter jurisdiction over the parties and this action
 7 pursuant to 28 U.S.C. §§ 1331 and 1343. Pursuant to 28 U.S.C. §§ 2201 and 2202, this Court
 8 has jurisdiction to declare the rights of the parties and to grant all further relief deemed
 9 necessary and proper.

10 32. Pursuant to 42 U.S.C. § 1367(a), this Court has supplemental jurisdiction over
 11 the state claims brought in this action, which arise from a common nucleus of operative facts
 12 and from the same transactions and occurrences raised in Plaintiffs' federal causes of action.

13 33. Venue lies in United States District Court for the Northern District of
 14 California pursuant to 28 U.S.C. §§ 84 and 1391 because a substantial part of the events that
 15 gave rise to the claims alleged in this complaint arose in the County of Alameda and one or
 16 more defendants reside in the County of Alameda or conduct business in the County of
 17 Alameda.

18 INTRADISTRICT ASSIGNMENT

19 34. The claims alleged herein arose in the County of Alameda. This action is
 20 properly assigned to the Oakland or San Francisco Division of the United States District Court
 21 for the Northern District of California pursuant to Civil Local Rule, 3-2(d).

22 STATEMENT OF FACTS

23 35. On May 15, 2007, Plaintiffs LEROY CISNEROS and FRANCISCO GARCIA,
 24 employees of LOCAL 81, were arrested by officers of Alameda County Sheriff's Office while
 25 engaging in lawful union activity.

26 36. LOCAL 81 was picketing the hiring of Legacy Roofing, a non-unionized
 27 business, which had been hired to do roofing work at the Castro Valley High School outdoor
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1 athletic complex. LOCAL 81 was engaging in lawful informational picketing activity that
2 informs the public that the contractor did not meet the conditions established by Roofers and
3 Waterproofers in the area. The picketing was peaceful, and protected under the First
4 Amendment to the United States Constitution and the National Labor Relations Act.

5 37. On May 15, 2007, at approximately 6:30 a.m., Plaintiffs LEROY CISNEROS
6 and FRANCISCO GARCIA, arrived at their designated picket site at the corner of Redwood
7 Road and Mabel Avenue near Castro Valley High School in Castro Valley, California, to
8 conduct a lawful labor picket on a public sidewalk. As part of the picket, Plaintiffs CISNEROS
9 and GARCIA placed an inflatable rat on the public sidewalk. Plaintiff GARCIA remained on
10 the public sidewalk while Plaintiff CISNEROS went towards the worksite to inform the roofers
11 about pay scales, wage ordinances and worker safety. Plaintiffs CISNEROS and GARCIA
12 were the only participants in the picket.

13 38. A couple of hours into the picket, the security guard assigned to Castro Valley
14 High School came out to the picket site and took a photograph of the inflatable rat and called an
15 unidentified person on his cell phone. The security guard then left the picket site and returned a
16 short while later and took additional photographs of the inflatable rat. The security guard stated
17 that school administrators had directed him to take additional photographs of the inflatable rat.

18 39. Shortly thereafter, Defendant GOLDMAN, Associate Principal at Castro Valley
19 High School, contacted the school resource officer, Defendant Deputy VALES of the Alameda
20 County Sheriff's Office, and complained about Plaintiffs who were picketing peacefully on the
21 public sidewalk near the high school. Defendant GOLDMAN reported that several subjects
22 were picketing the school and blocking the sidewalk. Defendant GOLDMAN informed the
23 Sheriff's Office that she was advised by Defendant MICHAEL MILLER, Director of
24 Maintenance for Castro Valley Unified School District, and Defendant JERRY MACY,
25 Assistant Superintendent for Castro Valley Unified School District, to contact the Alameda
26 County Sheriff's Office and have the Sheriff's Office remove the picketers and the inflatable
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1 rat, which was placed on the public sidewalk. Defendant GOLDMAN insisted that Plaintiffs be
2 removed from the location in question.

3 40. At approximately 9:30 a.m., officers from the Alameda County Sheriff's Office
4 arrived on the scene and ordered Plaintiff GARCIA to move the picket, including the inflatable
5 rat, to a location across the street because the sidewalk in question was on school property. The
6 Sheriff's officers threatened to arrest Plaintiff GARCIA if he did not move the picket and the
7 inflatable rat to a location across the street. The Sheriff's officers assured Plaintiff GARCIA
8 that he would not be arrested if he picketed from a location across the street. And, the officers
9 told Plaintiff GARCIA that he had no right to videotape the picket or their encounter with him.

10 41. The Sheriff's officers issued an ultimatum to Plaintiff GARCIA and threatened
11 him with arrest if he did not abandon the picket by leaving the picket site within 15 minutes.
12 Even though Plaintiff GARCIA had a lawful right to remain on the public sidewalk nearest to
13 the school, Plaintiff GARCIA moved to a location across the street as directed by the Sheriff's
14 officers.

15 42. When the Sheriff's officers returned, Plaintiff GARCIA was across the street and
16 Plaintiff CISNEROS was on the public sidewalk nearest to the school. The Sheriff's officers
17 first approached Plaintiff CISNEROS and ordered him to deflate the rat and remove it from its
18 existing location. Plaintiff CISNEROS was also ordered to cross the street and to picket from a
19 location that was farther away than the site initially selected by LOCAL 81 for the picket.

20 43. Plaintiff CISNEROS informed the officers that Plaintiffs had a right to picket at
21 the location in question, to have equal access to the public sidewalk, and to picket as close as
22 possible to the work site in issue. Plaintiff CISNEROS produced a letter from LOCAL 81
23 attorneys regarding their right to engage in lawful union activity. The letter, in pertinent part,
24 stated that California law exempts persons who are engaged in lawful union activities from
25 general trespass prohibitions, and that the California Supreme Court in *In re. Catalano*, 29
26 Cal.3d 1, (1981) recognized the right of a union representative to enter private property free
27 from arrest to conduct lawful union activity. The letter also explained, citing *Radcliff v.*
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1 *Rainbow Construction Company*, 254 F.3d 772 (9th Cir. 2002), that federal appellate courts
2 have upheld the right of a union representative to engage in lawful union activity on a school
3 district site, and that it would be a violation of section 7 of the National Labor Relations Act to
4 prevent a union representative from engaging in lawful union activity on a construction site.

5 44. The Sheriff's officers were dismissive of the letter from LOCAL 81 attorneys
6 contending that it did not apply to a union picket on school grounds. The Sheriff's officers
7 suggested that LOCAL 81 obtain competent legal advice.

8 45. One of the officers stated that Castro Valley Unified School District personnel
9 had insisted that the officers evict the picketers from the sidewalk, which the Castro Valley
10 Unified School District personnel claimed was school property. Fearing imminent arrest in any
11 event Plaintiff CISNEROS deflated the rat and put it in the trunk of his vehicle. Plaintiff
12 GARCIA meanwhile video-taped the officers' encounter with Plaintiff CISNEROS using the
13 video camera that was provided to him by LOCAL 81 to document that Plaintiff CISNEROS
14 was engaged in peaceful, informational picketing.

15 46. One of the Sheriff's officers saw Plaintiff GARCIA video taping the officers'
16 encounter with Plaintiff CISNEROS and alerted his colleagues. The officers crossed the street
17 and confronted Plaintiff GARCIA. One of the officers told Plaintiff GARCIA that he would be
18 placed under arrest for not complying with the officers' directives. Plaintiff GARCIA replied
19 that he had complied with their directives by crossing the street. Plaintiff GARCIA also
20 explained that he was videotaping the incident to protect himself, his colleague, and LOCAL
21 81.

22 47. The officers told Plaintiff GARCIA that he was being arrested because he failed
23 to leave the area when they first ordered him to do so. Thereafter, one of the officers grabbed
24 Plaintiff GARCIA and handcuffed him. The Sheriff's officers searched Plaintiff GARCIA'S
25 person and seized the LOCAL 81 video camera in his possession on the pretext that it
26 constituted evidence of criminal activity. The officers elected to arrest Plaintiff GARCIA
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1 before arresting Plaintiff CISNEROS so as to ensure that there would be no visual evidence of
2 Plaintiff CISNEROS' unlawful arrest. The officers also seized Plaintiff GARCIA'S picket sign.

3 48. Plaintiff CISNEROS was arrested moments later while he was engaged in a
4 phone conversation with a LOCAL 81 officer. The officers grabbed Plaintiff CISNEROS'
5 phone from him without allowing Plaintiff CISNEROS to complete his call. One of the officers
6 falsely and maliciously accused Plaintiff CISNEROS of resisting arrest. One of the officers
7 applied excessive force on Plaintiff CISNEROS' wrists while arresting him causing Plaintiff
8 CISNEROS to experience excruciating pain. Plaintiff CISNEROS pleaded with the officers to
9 ease up. After handcuffing Plaintiff CISNEROS, the officers searched his person. Plaintiff
10 CISNEROS' picket signs, the camera in his possession, and the letter from LOCAL 81
11 attorneys were all seized.

12 49. Plaintiffs CISNEROS and GARCIA were transported to the Santa Rita jail,
13 booked, and released almost 11 hours after their unlawful arrests. The Sheriff's officers had no
14 warrant for the arrests of Plaintiffs, no probable cause to arrest Plaintiffs, and no legal excuse or
15 justification to seize Plaintiffs or their property. Further, Plaintiffs' detention and incarceration
16 were unduly prolonged.

17 50. Plaintiffs CISNEROS and GARCIA are informed and believe that as a result of
18 being arrested and booked, their personal information, including their fingerprints, and the
19 criminal charges alleged against them were entered into and disseminated via County, State and
20 National law enforcement information systems under unique identification keys assigned to
21 Plaintiffs.

22 51. Defendants' misconduct was compounded by Plaintiffs' ridiculously long
23 detention at the Santa Rita Jail, and the Alameda County Sheriff's unwillingness to set bail in an
24 obvious effort to cause Plaintiffs to spend the night in jail. Plaintiffs CISNEROS and GARCIA
25 were arrested at approximately 9:30 a.m., yet the Alameda County Sheriff's Office refused to
26 inform and advise CISNEROS and GARCIA'S attorneys of the charges against Plaintiffs or the
27 amount of bail until after 5:00 p.m. when most banks were closed, despite repeated calls by
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1 Plaintiffs' attorneys throughout the day. It took the Sheriff's Office and the Santa Rita Jail
2 approximately eight hours to advise counsel of the charges and set bail, and almost another
3 three additional hours to release Plaintiffs CISNEROS and GARCIA.

4 52. According to the relevant incident reports, Plaintiff CISNEROS was charged
5 with violating California Penal Code sections 626.8(a)(1) - "SEX OFFENDER/ETC REMAIN
6 TO DISRUPT SCHOOL" and 148(a)(1) - "OBSTRUCT/RESIST/ETC PUBLIC/PEACE."
7 Plaintiff CISNEROS was released on bail in the sum of \$2,500.

8 53. According to the relevant incident reports, Plaintiff GARCIA was charged with
9 violating California Penal Code section 626.8(a)(1) - "SEX OFFENDER/ETC REMAIN TO
10 DISRUPT SCHOOL." Plaintiff GARCIA was released on his own recognizance.

11 54. The seized property, which Plaintiffs had used in connection with their lawful
12 union activity, was not returned on the pretext that it constituted evidence of criminal conduct.
13 Finally, on September 7, 2007, Plaintiffs' counsel obtained an order for the release of the seized
14 property from the Alameda County Superior Court. Even so, the Sheriff's Office declined to
15 release Plaintiffs' property pursuant to the court order but required additional internal
16 authorization in order to release the property.

17 55. Plaintiffs are informed and believe that Defendant ALAMEDA COUNTY
18 SHERIFF'S OFFICE referred the matter to the Alameda County District Attorney's Office for
19 prosecution. The Alameda County District Attorney's Office, however, declined to file
20 criminal charges against Plaintiffs CISNEROS and GARCIA.

21 56. Plaintiffs are informed and believe that Defendant CASTRO VALLEY
22 UNIFIED SCHOOL DISTRICT has, subsequent to the incident that resulted in Plaintiffs'
23 arrests and imprisonment, summoned law enforcement personnel to disrupt, disband and
24 suppress other lawful union-related activity that occurred on or near Castro Valley Unified
25 School District property.

26 57. Plaintiffs timely filed their notices of claim under the Government Claims Act
27 with the COUNTY OF ALAMEDA and CASTRO VALLEY UNIFIED SCHOOL DISTRICT.
28 Plaintiffs' claims were rejected by Defendant COUNTY OF ALAMEDA on November 14,

1 2007.

2 **STATEMENT OF DAMAGES**

3 58. As a direct and proximate result of Defendants' acts and omissions, Plaintiffs
4 CISNEROS and GARCIA were unlawfully detained, searched, battered, arrested, and
5 imprisoned. As a result of Defendants' acts and omissions, Plaintiffs sustained pain and
6 suffering, emotional distress, fear, humiliation, loss of security, anxiety, loss of physical liberty,
7 loss of wages, deprivation of property, interference with employment, business and other
8 property interests, and attorney fees and costs. Defendants further chilled, disrupted, and
9 suppressed Plaintiffs' speech, assembly, and lawful union-related activity.

10 59. LOCAL 81 lost two days' work and the time of its officer who secured
11 Plaintiffs' release because Plaintiffs, who were employed by LOCAL 81, were incarcerated at
12 Santa Rita jail for the entire day. LOCAL 81 lost additional employee time when CISNEROS
13 and GARCIA filed a motion to have their property returned, appeared for their hearings, and
14 traveled to the Sheriff's Office to get their property back. LOCAL 81 also lost use of the
15 cameras for nearly four months, which it routinely uses for organizing and monitoring activity.

16 60. Defendants and each of them is liable for Plaintiffs' injuries and damages
17 pursuant to 42 U.S.C. sections 1983, 1985 and 1986; California Government Code sections
18 815.2, 815.6, 820 and 820.8; and California Civil Code sections 51.7 and 52.1 as set forth
19 below.

20 61. Defendants' acts and omissions were intentional, willful, malicious, reckless, and
21 in conscious disregard of Plaintiffs' protected rights. As such and to deter future similar
22 conduct by Defendants, Plaintiffs are entitled to an award of punitive damages against
23 Defendants.

24 62. Plaintiffs are further entitled to statutory damages and penalties pursuant to
25 California Civil Code sections 52(b) and 52.1(b); and attorney fees and costs pursuant to 42
26 U.S.C. section 1988, and California Civil Code sections 52(b) and 52.1(h), and other applicable
27 statutes.

FIRST CAUSE OF ACTION

42 U.S.C. § 1983

**(Against Defendants VALES, DRISCOLL, LAPOINT, MCKAIG
in their official and individual capacities, and
GOLDMAN, MILLER, and MACY in their individual capacity only)**

63. Plaintiffs incorporate by reference the allegations set forth above and below.

64. Defendants VALES, DRISCOLL, LAPOINT, MCKAIG, GOLDMAN, MILLER, and MACY acted under color of law, and conspired to deprive, and acting jointly and in concert with one another did deprive Plaintiffs of their constitutional rights, which include, but are not limited to, the following:

- (a) the right to freedom of expression, assembly and association;
- (b) the right to be free from unreasonable detentions, searches, and seizures;
- (c) the right to be free from unlawful arrests, imprisonment, and malicious prosecution;
- (d) the right to equal protection of the laws;
- (e) the right not to be deprived of liberty without due process of law;
- (f) the right not to be subject to unreasonable and unjustified force against one's person.

65. The rights set forth above are embodied in clearly established constitutional law pursuant to the First, Fourth and Fourteenth Amendments to the United States Constitution.

66. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

SECOND CAUSE OF ACTION

42 U.S.C. § 1983

**(Against Defendants COUNTY OF ALAMEDA and
ALAMEDA COUNTY SHERIFF'S OFFICE)**

67. Plaintiffs incorporate by reference the allegations set forth above and below.

68. On information and belief, the unlawful conduct of Defendants VALES, DRISCOLL, LAPOINT, and MCKAIG was pursuant to and made possible by the customs, policies, practices, and/or procedures of the COUNTY OF ALAMEDA and the ALAMEDA COUNTY SHERIFF'S OFFICE, which include, but are not limited to, the following:

(a) engaging in, condoning, and/or failing to properly investigate or discipline racial discrimination and other equal protection violations;

(b) engaging in, condoning, and/or failing to properly investigate or discipline unreasonable detentions, searches and seizures, use of excessive, unreasonable and unjustified force, false arrests, malicious prosecutions, and due process violations;

(c) inadequately training and supervising officers, and failing to adopt and/or enforce policies and procedures for the proper training, and supervision of officers;

(d) inadequately investigating and failing to adopt and/or enforce rules, regulations, policies, and procedures for the proper investigation of and response to citizen complaints about officer misconduct;

(e) exhibiting deliberate indifference to the legal rights of unions and union representatives, including, but not limited to, the right to freedom of speech, assembly and association, right to conduct lawful union activity and perform union-related work.

69. The rights set forth above are embodied in clearly established constitutional law pursuant to the First, Fourth and Fourteenth Amendments to the United States Constitution.

70. As a result of the customs, policies, practices, and/or procedures listed above, Defendants VALES, DRISCOLL, LAPOINT, and MCKAIG believed that their actions would not be monitored, investigated, or result in disciplinary action by their supervisors and would instead be tolerated and/or condoned.

71. The foregoing customs, policies, practices, and/or procedures constitute deliberate indifference on the part of Defendants COUNTY OF ALAMEDA and ALAMEDA COUNTY SHERIFF'S OFFICE to Plaintiffs' constitutional rights.

72. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

THIRD CAUSE OF ACTION

42 U.S.C. § 1985(3)

**(Against Defendants VALES, DRISCOLL, LAPOINT, and MCKAIG
in their official and individual capacities)**

73. Plaintiffs incorporate by reference the allegations set forth above and below.

74. On information and belief, Defendants VALES, DRISCOLL, LAPOINT, and MCKAIG acted under color of law and conspired with one another and deprived Plaintiffs of their constitutional right to equal protection of the laws.

75. Defendants' conduct was motivated by racial animus.

76. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

FOURTH CAUSE OF ACTION

42 U.S.C. § 1986

**(Against Defendants DRISCOLL and MCKAIG
in their official and individual capacities, and
GOLDMAN, MILLER, and MACY in their individual capacity only)**

77. Plaintiffs incorporate by reference the allegations set forth above and below.

78. On information and belief, Defendants DRISCOLL, MCKAIG, GOLDMAN, MILLER, and MACY knew of the wrongs conspired to be done in violation of 42. U.S.C. section 1985 and further knew that such wrongs were about to be committed against Plaintiffs, but nonetheless failed, neglected, refused to prevent or aid in preventing the commission of such wrongs against Plaintiffs despite having the power to do so.

79. As a result of Defendants' negligent conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

FIFTH CAUSE OF ACTION

**California Government Code § 815.6 - Breach of Mandatory Duty
(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S
OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, MCKAIG in their
official and individual capacities; and GOLDMAN, MILLER, and
MACY in their individual capacity only)**

80. Plaintiffs incorporate by reference the allegations set forth above and below.

81. Defendants violated Plaintiffs' clearly established rights enacted pursuant to United States and California law, which include, but are not limited to, the following:

(a) First Amendment to the United States Constitution and Article I, Section 2 of the California Constitution - right to freedom of expression, assembly and association;

(b) Fourth Amendment to the United States Constitution and Article I, Section 13 of the California Constitution - right to be free from unreasonable detentions, searches, and seizures;

(c) Fourteenth Amendment to the United States Constitution and Article I, Section 7 of the California Constitution - right to due process and equal protection of the laws;

(d) Article I, Section 1 of the California Constitution - fundamental right to privacy;

(e) Civil Code Section 43 - right of protection from bodily restraint or harm, from personal insult, and from defamation;

(f) Civil Code Section 51.7 - right to freedom from violence;

(g) California Civil Code Section 52.1 - right to exercise civil rights.

82. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

1 WHEREFORE, Plaintiffs pray for relief as set forth herein.

2 **SIXTH CAUSE OF ACTION**

3 **California Government Code § 815.2 - *Respondeat Superior* Liability**
4 **(Against Defendants COUNTY OF ALAMEDA and ALAMEDA**
5 **COUNTY SHERIFF'S OFFICE)**

6 83. Plaintiffs incorporate by reference the allegations set forth above and below.

7 84. Defendants COUNTY OF ALAMEDA and ALAMEDA COUNTY SHERIFF'S
8 OFFICE are liable for injuries to Plaintiffs proximately caused by the acts and omission of their
9 employees within the scope of their employment.

10 85. On information and belief, Defendants VALES, DRISCOLL, LAPOINT, and
11 MCKAIG are and at all times material to this complaint were employed by the COUNTY OF
12 ALAMEDA and the ALAMEDA COUNTY SHERIFF'S OFFICE, and the wrongful conduct
13 attributed to said Defendants were caused by their acts or omissions in the scope of their
14 employment with the COUNTY OF ALAMEDA and the ALAMEDA COUNTY SHERIFF'S
15 OFFICE.

16 86. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have
17 suffered, and will continue to suffer, the above stated damages in an amount according to
18 proof, including attorney fees and costs, to remedy the unlawful conduct.

19 WHEREFORE, Plaintiffs pray for relief as set forth herein.

20 **SEVENTH CAUSE OF ACTION**

21 **False Imprisonment**

22 **(Against Defendants VALES, DRISCOLL, LAPOINT, MCKAIG, AHERN,**
23 **COUNTY OF ALAMEDA, and ALAMEDA COUNTY SHERIFF'S OFFICE)**

24 87. Plaintiffs incorporate by reference the allegations set forth above and below.

25 88. Acting within the scope of their employment with the COUNTY OF
26 ALAMEDA and ALAMEDA COUNTY SHERIFF'S OFFICE, Defendants VALES,
27 DRISCOLL, LAPOINT and MCKAIG unlawfully detained, arrested and imprisoned Plaintiffs
28 CISNEROS and GARCIA.

89. Defendants' warrantless detentions and arrests of Plaintiffs was non-consensual, intentional and without lawful privilege.

90. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

EIGHTH CAUSE OF ACTION

Assault and Battery

(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, MCKAIG in their official and individual capacities; and GOLDMAN, MILLER, and MACY in their individual capacity only)

91. Plaintiffs incorporate by reference the allegations set forth above and below.

92. Defendants assaulted and battered Plaintiffs CISNEROS and GARCIA.

Defendants' conduct was intentional, nonconsensual, harmful, offensive and without lawful justification. Further, Defendants' conduct caused Plaintiffs to be placed in fear of personal harm.

93. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

NINTH CAUSE OF ACTION

Intentional Infliction of Emotional Distress

(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, MCKAIG in their official and individual capacities; and GOLDMAN, MILLER, and MACY in their individual capacity only)

94. Plaintiffs incorporate by reference the allegations set forth above and below.

95. The conduct of Defendants was outrageous and directed at Plaintiffs.

Defendants' conduct was intended to cause injury or was in reckless disregard of the probability of causing injury to Plaintiffs and did in fact cause Plaintiffs serious emotional distress.

96. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth below.

TENTH CAUSE OF ACTION

Violation of Civil Code Section 52.1

(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, MCKAIG in their official and individual capacities; and GOLDMAN, MILLER, and MACY in their individual capacity only)

97. Plaintiffs incorporate by reference the allegations set forth above and below.

98. Defendants interfered with the exercise and enjoyment of Plaintiffs' clearly established rights under United States and California law, which include, but are not limited to, the following:

(a) First Amendment to the United States Constitution and Article I, Section 2 of the California Constitution - right to freedom of expression, assembly and association;

(b) Fourth Amendment to the United States Constitution and Article I, Section 13 of the California Constitution - right to be free from unreasonable detentions, searches, and seizures;

(c) Fourteenth Amendment to the United States Constitution and Article I, Section 7 of the California Constitution - right to due process and equal protection of the laws;

(d) Article I, Section 1 of the California Constitution - fundamental right to privacy;

(e) Civil Code Section 43 - right of protection from bodily restraint or harm, from personal insult, and from defamation;

(f) Civil Code Section 51.7 - right to freedom from violence.

99. Defendants violated Plaintiffs' clearly established rights under United States and California law by threats, intimidation and coercion.

100. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have

suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

ELEVENTH CAUSE OF ACTION

Violation of Civil Code Section 51.7

(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, MCKAIG in their official and individual capacities; and GOLDMAN, MILLER, and MACY in their individual capacity only)

101. Plaintiffs incorporate by reference the allegations set forth above and below.

102. Defendants violated Plaintiffs' right to be free from violence, threat of violence or intimidation by threat of violence on the basis of Plaintiffs' position in a labor dispute, and on the basis of Plaintiffs' race or color.

103. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth herein.

TWELFTH CAUSE OF ACTION

Negligence and Negligence Per Se

(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, MCKAIG in their official and individual capacities; and GOLDMAN, MILLER, and MACY in their individual capacity only)

104. Plaintiffs incorporate by reference the allegations set forth above and below.

105. At all relevant times, Defendants owed Plaintiffs the legal duty to act with reasonable care and not cause injury or harm to Plaintiffs, and loss of or damage to Plaintiffs' property or interest in property. Defendants owed Plaintiffs the legal duty not to discriminate against them on the basis of their actual or perceived race, on the basis of their employment or membership in a union, or position in a labor dispute. Defendants owed Plaintiffs the legal duty not to violate their rights to freedom of expression, assembly and association, due process and equal protection of the laws. Defendants owed Plaintiffs the legal duty to act with reasonable care and not portray Plaintiffs in a false light, and not unlawfully arrest and maliciously

1 prosecute Plaintiffs. Defendants owed Plaintiff the legal duty to comply with section 43 of the
 2 California Civil Code, which provides that every person has the right of protection from bodily
 3 restraint or harm, from personal insult, and from defamation.

4 106. Further, Defendants COUNTY OF ALAMEDA and ALAMEDA COUNTY
 5 SHERIFF'S OFFICE also owed Plaintiffs the duty to properly hire and adequately train and
 6 supervise Defendants' employees, and to adopt and/or enforce policies and procedures for the
 7 proper hiring, training, and supervision of Defendants' employees.

8 107. By their acts and omissions, Defendants breached each of the foregoing duties
 9 owed to Plaintiffs. Further, it was reasonably foreseeable that such breaches of duty would
 10 cause Plaintiffs physical and/or emotional harm.

11 108. As a direct and proximate cause of Defendants' negligence, Plaintiffs have
 12 suffered, and will continue to suffer, the above stated damages in an amount according to proof,
 13 including attorney fees and costs, to remedy the unlawful conduct.

14 WHEREFORE, Plaintiffs pray for relief as set forth below.

15 **THIRTEENTH CAUSE OF ACTION**

16 **Invasion of Privacy**

17 **(Against Defendants COUNTY OF ALAMEDA; ALAMEDA COUNTY SHERIFF'S**
 18 **OFFICE; AHERN; VALES, DRISCOLL, LAPOINT, and MCKAIG**
in their official and individual capacities)

19 109. Plaintiffs incorporate by reference the allegations set forth above and below.

20 110. Article I, Section 1 of the California Constitution recognizes privacy as an
 21 inalienable right. Defendants intentionally portrayed Plaintiffs in a false light by accusing
 22 Plaintiffs of engaging in criminal conduct. Defendants' characterization of Plaintiffs' conduct,
 23 which was publicized in a local newspaper, was unfair and inaccurate.

24 111. Further, Defendants intentionally intruded on Plaintiffs' zones of physical and
 25 sensory privacy and obtained unwarranted access to Plaintiffs' personal and private information
 26 and disseminated such information nationwide via law enforcement information systems.
 27
 28

112. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have suffered, and will continue to suffer, the above stated damages in an amount according to proof, including attorney fees and costs, to remedy the unlawful conduct.

WHEREFORE, Plaintiffs pray for relief as set forth below.

FOURTEENTH CAUSE OF ACTION

Injunctive and Declaratory Relief

(Against Defendants COUNTY OF ALAMEDA, ALAMEDA COUNTY SHERIFF'S OFFICE, AHERN, CASTRO VALLEY UNIFIED SCHOOL DISTRICT, LOSS, OKUI, BARBIERI, FRIESEN, GRANGER, and FITZPATRICK)

113. Plaintiffs incorporate by reference the allegations set forth above and below.

114. An actual and substantial controversy now exists between Plaintiffs and Defendants COUNTY OF ALAMEDA, ALAMEDA COUNTY SHERIFF'S OFFICE, and CASTRO VALLEY UNIFIED SCHOOL DISTRICT as to whether the sidewalk on the corner of Redwood Road and Mabel Avenue in Castro Valley, California, is a public forum, and whether Plaintiffs have a legal right to conduct lawful pickets and lawful union activity at or near Castro Valley High School and other schools in the Castro Valley Unified School District.

115. An actual and substantial controversy exists between Plaintiff and Defendants whether Defendants' policies and practices, which deter, inhibit and chill free speech, association and assembly, and suppress, disrupt and disband lawful union-related activity by detention, arrest, incarceration, and prosecution of persons engaged in lawful union pickets and union-related activity violate the First, Fourth and Fourteenth Amendments to the United States Constitution, and Article I, section 2 of the California Constitution.

116. Further, unless the Court issues an appropriate declaration of rights, the parties will not know whether Defendants' policies and practices comply with the law, and Plaintiffs will likely be subject to adverse action on the basis of Defendants' conduct as set forth above.

117. Defendants' conduct violates 42. U.S.C. section 1983 and the First, Fourth and Fourteenth Amendments to the United States Constitution. Defendants' conduct violates Article I, sections 2, 7, and 13 of the California Constitution.

1 118. Unless the Court grants injunctive relief to Plaintiffs prohibiting Defendants
 2 from engaging in the foregoing unlawful conduct there will continue to be disputes and
 3 controversies surrounding the conduct of lawful union-related activity on property on or near
 4 Defendants' places of business or in areas under Defendants' jurisdiction, and Plaintiffs will
 5 likely be subject to adverse action on the basis of Defendants' conduct as set forth above.

6 119. As a result of Defendants' unlawful conduct as alleged herein, Plaintiffs have
 7 suffered, and will continue to suffer, the above stated damages in an amount according to proof,
 8 including attorney fees and costs, to remedy the unlawful conduct.

9 WHEREFORE, Plaintiffs pray for relief as set forth herein.

10 **JURY TRIAL DEMAND**

11 120. Plaintiffs hereby request a jury trial in this action.

12 **RELIEF REQUESTED**

13 Wherefore, Plaintiffs respectfully requests that this Court grant the following relief:

- 14 1. Compensatory damages according to proof against all defendants;
- 15 2. Special damages according to proof against all defendants;
- 16 3. Statutory damages and penalties pursuant to California Civil Code sections 52(b)
 17 and 52.1(b);
- 18 4. Punitive damages in an amount according to proof against all defendants;
- 19 5. Declaratory judgment that Defendants' policies and practices violate Plaintiffs'
 20 rights as guaranteed under 42 U.S.C. section 1983, the First, Fourth and Fourteenth
 21 Amendments to the United States Constitution, and Article I, sections 2, 7, and 13 of the
 22 California Constitution;
- 23 6. Declaratory judgment that the sidewalk on the corner of Redwood Road and
 24 Mabel Avenue adjoining Castro Valley High School in Castro Valley, California, is a public
 25 forum;
- 26 7. Permanent injunction enjoining Defendants from suppressing, disrupting and
 27 disbanding lawful union pickets and lawful union-related activity on public or private
 28 property, including such activity that is conducted on or near school grounds;

1 8. Order compelling Defendants County of Alameda and Alameda County
2 Sheriff's Office to expunge Plaintiffs' arrests from their records and to take all necessary steps
3 to ensure that Plaintiffs' arrests are expunged from all state and federal law enforcement
4 information systems;

5 9. Attorney fees and costs pursuant to 42 U.S.C. section 1988;

6 10. Attorney fees and costs pursuant to California Civil Code sections 52(b) and
7 52.1(h); and

8 11. Such other relief as the Court finds just and proper.

9
10 DATED: April 30, 2008

LAW OFFICES OF ELLYN MOSCOWITZ

11
12
13 By: 

14 ELLYN MOSCOWITZ
15 SHARON SEIDENSTEIN
16 for Plaintiffs
17 LOCAL 81, LEROY CISNEROS and
18 FRANCISCO GARCIA
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